

2399 '04 MAY 11 12:58

May 6, 2004

Division of Dockets Management (HFA-305)
Food and Drug Administration
5630 Fishers Lane
Room 1061
Rockville, MD 20852

Re: **Reopening of Comments on Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002**

Gentlemen:

We are customs brokers and international freight forwarders in Seattle/Tacoma, Washington. We are addressing these comments to the Food and Drug Administration on behalf of several of our import clients who have come to us with concerns about their ability to continue importing under the Food and Drug Administration's "Interim Regulations".

The "Interim Regulations" of the Food and Drug Administration require that the registration number of the actual manufacturer of the food, food product, beverage or animal food item be shown in the Prior Notice to the Food and Drug Administration.

In many cases these imported food and food related items are purchased as surplus food, from retail shops and from other overseas sellers who are not the actual manufacturers of the food and food related items. The overseas buyer/exporters of these food items want to sell these items to the United States and the U.S. importers want to import these goods into the United States; however, they are unable to obtain the registration numbers from the actual manufacturers, some of who may even be U.S. manufacturers.

Section 307 of the Act requires that the manufacturer and shipper be shown in the Prior Notice; however, the Act does not require the manufacturer's registration number be shown on the Prior Notice. Section 307 of the Act does not require the full address of the manufacturer either.

02N-0276

C224

AIRPORT BROKERS CORPORATION

P.O. Box 68668, Seattle, Washington 98168
17730 Ambaum Blvd. S., Seattle, WA 98148, U.S.A.
Telephone (24 Hr. Service) (206) 246-6580
Telex 152656 ABSEA - FAX (206) 242-7410
Customs Brokers License No. 5826 - IATA No. 01-1-0278
Federal Maritime License No. 2497

An International Service Organization Having Agents Worldwide

In looking at food and food products already sold in the United States, we note, for example, that Hershey Food Corporation's Krackel candy bar states that it is produced by Hershey Foods Corporation, Hershey, Pennsylvania 17033-0815 USA, which is probably Hershey's corporate address and not the actual physical address of the production plant. This labeling has met with the approval of the Food and Drug Administration for years and is still, apparently, allowed. The fact that the label has a name and partial address for the "manufacturer" allows the product buyer and the Food and Drug Administration to know who to contact and where they are located in case they want to contact the manufacturer. If this is ample for foods produced in the United States for domestic consumption, it should satisfy the Prior Notice requirements for imported food and food products.

Therefore, we respectfully request that the final regulations for the Prior Notice allow for the name of the actual manufacturer and for either the city, state, and country in which their corporate office is located or their manufacturing location, either one.

In the case of "Generic Brands", "Private Label" goods and other items manufactured by a manufacturer on a specific party's request, these goods almost always have the name and address of the specific party that requested the manufacture. In that the actual manufacturer is acting on behalf of the party that ordered the manufacture, in that the party who ordered the goods wants to take responsibility for the quality of the goods by having their name shown on the label as if they were the actual manufacturer, we believe that the name and address of the party shown on the label as the manufacturer or producer or seller of the goods should be sufficient.

It is often impossible to know if the party shown on the label is the actual manufacturer of the product or whether they have contracted the product out to another manufacturer and are selling it as if it were their own product. Taking the Hershey food example, the average buyer has no way of knowing whether Hershey actually produces all of the food that they market under their own label. Only Hershey and their subcontractors know if Hershey is not the actual producer and, if Hershey is not the actual producer, Hershey does not want the buyer to know who the actual manufacturer is.

With all of the contracts for production, joint marketing agreements, specialty food items, etc, the matrix of food and food product production is very complex. It is impossible for the buyer to know for certain who the actual manufacturer is, or was; however, it is certain that the firm showing themselves on the label as the manufacturer is willing to take on the liability and responsibility of the product.

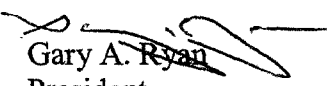
FDA Comments (cont.)

Page 3

Therefore, for the final regulations, we respectfully request that the final regulations require the manufacturer's name or the name shown as the manufacturer on the product label, be accepted on the Prior Notice for importation.

In these examples, Hershey Food Corporation and its products were only used as examples because the label for one of their candy bar products happened to be on my desk (contents empty) at the time of writing. In no way should their name be linked in any negative way with food or food products. In fact, if the product had not been so good, the label would not have been laying there by itself.

Very truly yours,
AIRPORT BROKERS CORPORATION


Gary A. Ryan
President